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8 Attorneys for Defendants
BlackRock Institutional Trust Company, N.A.; BlackRock,
Inc.; the BlackRock, Inc. Retirement Committee; the
9 Investment Committee of the Retirement Committee; the
Administrative Committee of the Retirement Committee;
10 Catherine Bolz; Chip Castille; Paige Dickow; Daniel A.
Dunay; Jeffrey A. Smith; Anne Ackerley; Nancy Everett;
11 Joseph Feliciani, Jr.; Ann Marie Petach; Michael
Fredericks; Corin Frost; Daniel Gamba; Kevin Holt; Chris
12 Jones; Philippe Matsumoto; John Perlowski; Andy Phillips;
Kurt Schansinger; Tom Skrobe; Amy Engel; Management
13 Development & Compensation Committee of the
BlackRock, Inc. Board of Directors; Kathleen Nedl; Marc
14 Comerchero; Joel Davies; John Davis; Milan Lint; and
Laraine McKinnon
15

16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18

19 Charles Baird and Lauren Slayton, as
individuals, and on behalf of all others
20 similarly situated, and on behalf of the
BlackRock Retirement Savings Plan,

21 Plaintiffs,

22 v.

23 BlackRock Institutional Trust Company,
24 N.A., *et al.*,

25 Defendants.
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27
28

Case No: 17-cv-1892-HSG

**DECLARATION OF MEAGHAN VERGOW IN
SUPPORT OF BLACKROCK'S
MEMORANDUM IN OPPOSITION TO
PLAINTIFFS' MOTION TO EXCLUDE
EXPERT TESTIMONY OF RUSSELL
WERMERS ON CLASS CERTIFICATION
ISSUES**

1 I, Meaghan VerGow, declare and state as follows:

2 1. I am an attorney licensed to practice in the State of New York and the District of
3 Columbia. I am a partner of O'Melveny & Myers LLP, counsel of record for Defendants BlackRock
4 Institutional Trust Company, N.A. ("BTC"); BlackRock, Inc.; the BlackRock, Inc. Retirement
5 Committee; the Investment Committee of the Retirement Committee; the Administrative Committee
6 of the Retirement Committee; Catherine Bolz; Chip Castille; Paige Dickow; Daniel A. Dunay;
7 Jeffrey A. Smith; Anne Ackerley; Nancy Everett; Joseph Feliciani, Jr.; Ann Marie Petach; Michael
8 Fredericks; Corin Frost; Daniel Gamba; Kevin Holt; Chris Jones; Philippe Matsumoto; John
9 Perlowski; Andy Phillips; Kurt Schansinger; Tom Skrobe; Amy Engel; Management Development
10 & Compensation Committee of the BlackRock, Inc. Board of Directors; Kathleen Nedl; Marc
11 Comerchero; Joel Davies; John Davis; Milan Lint; and Laraine McKinnon (collectively,
12 "BlackRock") in the above-captioned litigation. I submit this declaration in support of BlackRock's
13 Memorandum in Opposition to Plaintiffs' Motion to Exclude Expert Testimony of Russell Wermers
14 on Class Certification Issues. I have personal knowledge of the following facts and, if called and
15 sworn as a witness, I could and would testify to them.

16 2. On February 25, 2019, counsel for plaintiffs notified counsel for BlackRock that they
17 had served a subpoena on Finadium, a third party. The subpoena, dated February 15, 2019, sought
18 the production of specific non-public reports created by Finadium. Plaintiffs later agreed to pay for
19 the use of the reports.

20 3. On March 27, 2019, BlackRock served the Expert Report of Russell Wermers
21 ("Report") on counsel for plaintiffs. Contemporaneously, BlackRock served all of the Markit and
22 Brightscope Beacon data that Professor Wermers considered in preparing the Report as well as the
23 working materials supporting the exhibits to the Report.

24 4. The working materials for Professor Wermers' report were produced to plaintiffs in
25 format that organized the materials into subfolders reflecting the portions of the Report they
26 supported. A subfolder labeled "Exhibit 5" contained a spreadsheet titled
27 "Wermers_Exhibit_5.xlsx." That spreadsheet contains several tabs, including one that replicates
28 Exhibit 5; another tab in the spreadsheet, titled "Beacon Asset Manager Details," identifies a date of

February 13, 2019. A different subfolder, labeled “FN 41-43,” contained a spreadsheet titled “BrightScope_xls_Fund_fund_2019-03-24.xls.” That spreadsheet contains only one tab, titled “Beacon Fund Details,” which identifies a date of March 24, 2019.

5. On May 24, 2019, O’Melveny & Myers LLP was copied on a letter from Laura Anderson Wright, Associate General Counsel for the University of Maryland, to Daniel Sutter, counsel for plaintiffs. The letter stated that the University of Maryland had processed a request from Mr. Sutter under the Maryland Public Information Act for “Emails between Russell Wermers . . . and any of the following domains (@omm.com, @blackrock.com, or @analysisgroup.com).” The letter further noted two revised requests for emails containing “Baird,” “BlackRock,” “O’Melveny,” and certain other terms. The letter indicates that Mr. Sutter’s request was denied as seeking records outside the scope of or protected from disclosure under the Public Information Act.

6. On April 29, 2019, plaintiffs issued a subpoena to Professor Wermers seeking all documents he or anyone working under his direction or supervision considered in connection with the case. On May 7, 2019, BlackRock served objections to the subpoena, on the grounds that the subpoena sought “Academic Articles, Books, and Surveys” and “Websites and News Articles” that were “public or otherwise available to Plaintiffs,” and that BlackRock had “already produced the remaining documents that Dr. Wermers considered when preparing his report.”

7. In accordance with the Court’s standing order discouraging parties from needlessly submitting voluminous exhibits, BlackRock has provided excerpts, where appropriate, of the documents it attaches as Exhibits to this declaration. Should the Court so request, BlackRock will provide full versions of any of these documents.

8. Attached hereto as Exhibit A is a true and correct copy of excerpts of *16 Things You Should Know: Information About BTC*, dated June 2017. The full document was produced by BlackRock to plaintiffs under the Bates range BAIRD_00001821-68 on October 19, 2017.

9. Attached hereto as Exhibit B is a true and correct copy of excerpts of the transcript of the deposition of Russell Wermers, taken on May 8, 2019, in Washington, D.C.

10. Attached hereto as Exhibit C is a true and correct copy of a webpage from BrightScope Beacon regarding Bridgewater Associates, Inc., as it appeared on August 5, 2019. This

1 webpage requires a login to access and was downloaded at my direction by BlackRock's consulting
2 expert, Analysis Group.

3 11. Attached hereto as Exhibit D is a true and correct copy of BAIRD_0087933. The
4 document was produced by BlackRock to plaintiffs on March 9, 2018.

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6 I declare under penalty of perjury under the laws of the United States that the foregoing is
7 true and correct.

8 Executed this sixteenth day of August, 2019 in Washington, DC.

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10 By: /s/ Meaghan VerGow
Meaghan VerGow
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